

***City of Burien***

**BURIEN PLANNING COMMISSION MEETING**

July 24, 2007

7:00 p.m.

City Council Chambers

**MINUTES**

**Planning Commission Members Present:**

Robert Simpson-Clark, Jim Clingan, Stacie Grage, Jon Newton, Michael Sumner

**Absent:**

Rebecca McInteer, Janet Shull

**Others Present:**

Scott Greenberg, Community Development director; Scott Hardin, Finance director

**Roll Call**

Chair Simpson-Clark called the meeting to order at 7:05 p.m. Upon the call of the roll all commissioners were present with the exception of Commissioners McInteer and Shull.

**Agenda Confirmation**

Motion to approve the agenda as printed was made by Commissioner Newton. Second was by Commissioner Clingan and the motion carried unanimously.

**Public Comment**

Councilmember Clark provided an update for the commission regarding the Lora Lake Apartments. She said there have been protests at the site for the last several days. People have been arrested for breaking in and trying to take over some of the apartment units. Port of Seattle Commissioner Bob Edwards and King County Executive Ron Sims called a news conference earlier in the day; Burien was not invited. The airplane noise was so bad very few could hear what was said. Commissioner Edwards did announce his intent to introduce a motion at the Port Commission meeting later in the day to allow demolition of the portion of the apartment complex that lies within the RPZ to proceed, but to stay the demolition of the other 162 units.

At the Port Commission meeting Burien testified that the City Council position has always been that the site is inappropriate for residential uses because of the proximity to the airport and the high level of airplane noise and air pollution. The Port was encouraged to continue with the partnership that has been in place since 1998. A number of people from the housing advocacy community were present at the meeting and they testified that the noise issues are not as big as Burien says they are; it is quieter at the site when the planes are taking off toward the south.

By the end of the Port Commission meeting a decision had been made not to have the bulldozers roll soon. Another meeting to talk about the issue was slated for August 9.

Commissioner Clingan thanked Councilmember Clark for her report. He said the news reports have talked about King County purchasing the Lora Lake Apartments and asked if that would include the rest

of the triangle to the south of the complex. Planning Director Scott Greenberg said he does not know if the \$18 million offer included that property.

Answering a question asked by Commissioner Clingan, Councilmember Clark said it appears that only three of the Port Commissioners at that meeting favor staying the course with Burien and taking the apartments down. The other four have varying opinions on how to save the units.

Councilmember Clark said King County is reportedly planning to file an injunction with the King County Superior Court to stay the effort to demolish the complex. She said Burien likely will not have standing in a court case because the Port of Seattle owns the land; Burien only has zoning authority over the land. Any plan to expand the complex to currently vacant land would require a Comprehensive Plan amendment and possibly a rezone action.

Mr. Greenberg said the King County Housing Authority filed an eminent domain action on July 20.

Commissioner Sumner suggested that if people are ultimately allowed to live in the complex, someone will have to step up to make sure the residents are not polluted by the noise. Councilmember Clark said the King County Housing Authority is on record as saying after they took over the complex in 2000 they addressed the noise pollution issue by insulating the units. The fact is, however, that the outside areas cannot be insulated from the noise; the noise will affect children playing and could be a safety issue.

Commissioner Newton observed that Burien has been painted as the bad guy by the news media even though the City has consistently stood as the people's advocate for health and safety and looking out for the families who are in a very bad situation. Burien needs to blow its own horn.

Commissioner Clingan concurred. He said the media has portrayed Burien as looking only to gain big box retail. What the City is pursuing is economic redevelopment. Both the City and the Port have been made to look bad.

Motion to express the support of the commission for the position of the City Council with regard to the Lora Lake Apartments was made by Commissioner Clingan. Second was by Commissioner Sumner and the motion carried unanimously.

Commissioner Clingan volunteered to attend the next meeting of the Port Commission and to echo the position of the Planning Commission. Chair Simpson-Clark suggested that if a commissioner is to speak on behalf of the commission, there should be an authorization motion passed.

Motion to authorize Commissioner Clingan to speak on behalf of the commission at the August 9 Port Commission meeting was made by Commissioner Sumner. Second was by Commissioner Newton and the motion carried without dissent; Commissioner Clingan abstained from voting.

### **Approval of Minutes**

A. June 12, 2007

Motion to approve the minutes as submitted was made by Commissioner Clingan. Second was by Commissioner Grage and the motion carried unanimously.

**Old Business** – None

**New Business**

A. Capital Improvement Program

Mr. Greenberg introduced new Finance Director Scott Hardin to walk through the Capital Improvement Program. Mr. Hardin said for the past month and a half he has been presenting financial forecast information to the City Council as a prelude to the budget process. The forecast shows the operating budget accounts for a little more than two-thirds of the total; the other third, or about \$11 million, taken up by the Capital Improvement Program.

Answering a question asked by Commissioner Newton, Mr. Hardin explained that the 2007 budget is within three percent of the forecast for 2007.

Mr. Hardin said the longer range forecast shows the City to be in a good financial position for the next six years. The forecast for the general fund shows approximately \$3 million in available discretionary revenues; those funds could be applied to either the operating budget or the capital budget. The forecast shows a little more than \$2 million in available discretionary fund for the Surface Water Management Fund. On the capital side, no discretionary funds are identified until 2012 when current projects wind down.

The commissioners were informed that the available general fund dollars are anticipated to decline in the coming years because the expense growth rates are exceeding the revenue growth rates. Unless that issue is addressed sooner rather than later, expenses will eventually exceed revenues.

Chair Simpson-Clark asked how the expense growth rate of four and a half percent compares to other inflation indices. Mr. Hardin allowed that the general rate of inflation for the greater Seattle area for 2006 was 2.6 percent. The budget areas that have seen the greatest degree of growth are police services, health benefits and contracted services. In addition, construction costs for capital projects are far exceeding the general inflation rate.

Mr. Hardin said the discretionary funds will be available to offset the increase in capital project costs. For 2008 there will be four capital improvement projects under way. The Town Square project will take up the lion's share of the capital spending, followed by parks projects, transportation projects, and surface water management projects.

Commissioner Newton asked if the requirement to update the Shoreline Management Plan will impact surface water management projects in any way. Mr. Greenberg allowed that staff has not gotten to that level of detail just yet. He suggested that surface water management projects will be more impacted by the NPDES Phase II requirements.

Mr. Hardin said about a third of the funding for capital projects in 2008 will come from grants. The City also has issued bonds to generate the cash needed for the Town Square project; those bonds will need to be repaid over the next 20 years.

Mr. Greenberg said the Capital Improvement Program budget will be on the agenda for the commission's next meeting for additional discussion and a recommendation to the City Council. The intent is to have the commission be more involved in the process, particularly in recommending capital projects based on the Comprehensive Plan.

## A. Potential Annexation Update

Mr. Greenberg reminded the commissioners that Burien adopted a Potential Annexation Area (PAA) for the entire North Highline area in November 2006. That same month Seattle adopted a PAA for everything in North Highline except for Area D; Seattle and Tukwila had already designed Area D as a PAA in the mid-1990s, Tukwila in 1995 and Seattle in 1996. Tukwila filed an appeal to Seattle's designation before the Growth Management Hearings Board. Ultimately, the two jurisdictions agreed to disagree and to work together to find a resolution. There are a handful of issues that make evident the fact that the boundaries need to be cleaned up. No resolution by the two jurisdictions has ever been hammered out.

Seattle filed an appeal with the Growth Management Hearings Board after Burien adopted a PAA including Area D. Burien's response was to file an appeal of Seattle's PAA for the rest of the North Highline area. King County and Tukwila asked to be granted intervener status in order to be permitted to participate, provide information and testify. Their requests were granted.

The Growth Management Hearings Board held its hearing on May 31 and handed down its decision on July 9. The decision of the board was to abandon its previous decision in the Renton vs Newcastle case that established the first-in-time precedent in the mid-1990s. The language of the ruling called the rule established in Renton vs Newcastle "...a relic of a bygone GMA era..." The ruling abandons the first-in-time rationale and favors the overriding GMA emphasis on cooperative and coordinated planning and the transformation of governance for unincorporated urban areas. The testimony of King County heavily influenced the board in making its ruling.

Continuing, Mr. Greenberg said the Growth Management Hearings Board also found that the Burien and Seattle PAAs are not clearly erroneous, a test required to overturn an action. They further found that the conflicting PAAs actually comply with the GMA and the Countywide Planning Policies. The appeals filed by Seattle and Burien were thrown out.

The City Council had determined to concede Seattle's point relative to Area D, but the way the city attorney wrote it up was that Burien would concede only if directed to do so by the Growth Management Hearings Board. Much to everyone's surprise, the board found nothing wrong with the conflicting PAAs for Area D.

On May 7, the Burien City Council voted unanimously to direct the City Attorney to concede Area D because it had previously promised to do so. Accordingly, the Comprehensive Plan docket that will be coming to the commission in August includes a PAA amendment to remove Area D.

Mr. Greenberg explained that the Growth Management Planning Council is a creature of King County; it functions similar to a planning commission in that it has no decision-making powers. The body makes recommendations to the King County Council on matters pertaining to the Countywide Planning Policies, which is the county equivalent of a comprehensive plan. The Countywide Planning Policies drive the development of local comprehensive plans to some extent.

The GMPC has 20 voting members, all of whom are elected officials. Half of the members are appointed by the Suburban Cities Association, so the smaller cities are given a voice. Mr. Greenberg said Councilmember Krakowiak is an SCA appointee and that he was appointed to serve as the South King County representative to the GMPC staff.

The GMPC meets twice annually and will meet next on October 3. At its June 20 meeting it was afforded a short briefing with regard to the PAA issue. On October 3 the GMPC will have several options before it. The anticipation is it will acknowledge the overlap and recommend coloring the interim potential annexation area map red, recognizing a changed status. Other options available to the GMPC include: leaving the map colored yellow, which stands for not covered by a PAA, and directing the various parties to get together and work out the issues; making a decision to give the area to one city or the other; and allowing the jurisdictions involved to pull the matter from the October 3 meeting in favor of the first meeting in 2008.

Recommendations of the GMPC are forwarded to the King County Council, which in turn must pass an ordinance amending the Countywide Planning Policies. That ordinance then must be sent to each city in King County for ratification. Thirty percent of the governments in King County representing 70 percent of the population must ratify a Countywide Planning Policies amendment in order for it to become effective.

Because most jurisdictions are focused on their budgets in the latter part of the year, recommendations that come out of the GMPC in the fall of the year generally are not addressed until January.

Mr. Greenberg said the SeaTac City Council currently is working to establish its Comprehensive Plan amendment docket for the year. The deputy mayor has proposed studying the potential annexation of the portion of Boulevard Park east of Des Moines Memorial Drive. Their Planning Commission has recommended studying everything east of SR-509, which certainly makes the plot thicker. The ruling of the Growth Management Hearings Board opens the door to additional overlapping PAAs.

Mr. Greenberg suggested that prognosticating the outcome of it all is not possible. Certainly Seattle and Burien remain far apart in their thinking and no one believes they will draw any closer in the immediate future. The current schedule calls for going before the GMPC in October, and they may color the map red and then wait for things to iron out. It is, however, an election year and there are election politics on both the Seattle and Burien sides of the line dealing with annexation; whether or not either city will want to change its position will be a difficult political issue to tackle. The Burien City Council has decided to stay the course set for the adopted PAA.

Some questions remain without clear answers, including what would happen should someone present a petition for annexation of the North Highline area; or what would happen if there is a 10 percent election petition in which 10 percent of the voters who voted in the last election sign a petition asking the Burien City Council to pass a resolution asking for an election. State law allows city councils to pass ordinances seeking an election without a petition. The problem is until the interim potential annexation area map is colored red, it is questionable that the Boundary Review Board could authorize an election; even if they did authorize an election, Seattle could file a legal challenge given that they also have adopted a PAA for the North Highline area. The option of North Highline choosing to incorporate is still available, and it is unlikely that a PAA would trump an incorporation.

Commissioner Clingan asked if there is any scenario in which annexation could be on the ballot in November. Mr. Greenberg said the voters pamphlet statement must be written and submitted by August 8, so it is very unlikely that anything could be added to the ballot for November; there is just too much process standing in the way.

### **Director's Report**

Mr. Greenberg noted that the crane for the Town Square project is under construction. He also reported that a new Office Depot will be moving into the former site of Long's Drugs. The design review process

is in full swing for the Burien transit center, and the design review process soon will be under way for the City Hall/library project.

Mr. Greenberg said he is serving on the staff team for the community center master plan process. He said an open house/community meeting attended by 50 or 60 people was held on July 19. A steering committee has been set up, and several stakeholder groups have been identified.

Commissioner Clingan asked what the plan is for having the new community center housing the same tenants occupying the current community center. Mr. Greenberg said at one time the plans called for using the old library building as a senior center, but because of the costs associated with staffing two facilities, the City has backed off of taking that approach. Furthermore, new research indicates that as the Baby Boom generation ages they will not want the traditional senior center activities; they will want to be more active and involved intergenerationally. The thinking is that the City should try to accommodate all of the current tenants, even if that means helping them find new spaces.

### **Adjournment**

Motion to adjourn was made by Commissioner Sumner. Second was by Commissioner Clingan and the motion carried unanimously.

Chair Simpson-Clark adjourned the meeting at 8:45 p.m.

Approved: \_\_\_\_\_

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Robert Simpson-Clark, chair  
Planning Commission